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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,563	01/26/2004	Darren Ronald Boisjolie	69448-00020USPT	4037

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EXAMINER
DANG, THANH HA T

ART UNIT	PAPER NUMBER
2163	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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	Examiner	Art Unit	
	Thanh-Ha Dang	2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 August 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>8 and 10-13</u> is/are pending in the application.

    4a) Of the above claim(s) <u>1-7,9 and 14-28</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>8 and 10-13</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>26 January 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/13/08</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. Claims 8 and 10-13 are pending in this Office Action.

2. Applicant cancelled Claims 1-7 and 9.

3. Claims 14-28 are withdrawn from consideration.

4. This Action is made FINAL.

Response to Amendment

5. Receipt of Applicant's Amendment filed on 08/19/08 is acknowledged.

6. Claim Rejections - 35 USC § 112 regarding Claim 10 is withdrawn based on
Applicant's Amendment.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the art to which said subject
> matter pertains. Patentability shall not be negatived by the manner in which the invention was
> made.

This application currently names joint inventors.   In considering
patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that
the subject matter of the various claims was commonly owned at the time any
inventions covered therein were made absent any evidence to the contrary.
Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No. US2002/0103914 issued to Dutta et al. ("Dutta"), and further in view of US Patent No. 6,189,008 issued to Easty et al. ("Easty").

As to **Claim 8**, *Dutta teaches* a method of monitoring the appropriateness of digital content received at a plurality of monitored computers over a computer network, each of the plurality of monitored computers under the control of a monitored user, the method comprising:

- providing a client application comprising data processing executable instructions, resident on each of said monitored computers *(Figures 1A-B, page 1 [0017])*;

- providing, in the client application, modules for performing content rating *(Figures 6-7, page 6 [0141])* and content filtering *(Figure 4, page 3 [0033])*;

- providing a server application comprising data processing executable instructions resident on a server remotely located from the plurality of monitored computers *(Figures 1A-B, 2, and 4-5, page 1 [0017])*;

- providing at least one communication application in the client application *(page 2 [0018, wherein TCP/IP suite of protocols to communicate with one another read on communication application limitation])*;

- providing at least one communication application in the server application *(page 2 [0018, wherein TCP/IP suite of protocols to communicate with one another read on communication application limitation])*;

- (h) for said plurality of monitored computers, utilizing said client application and said server in combination in order to generate an approval or disapproval indication for the digital content in real time as the monitored user accesses the digital content *(Figures 1A-B, 4 and 7, page 7 [0148-0150])*; and

- utilizing the client application for blocking or permitting further communication in a predetermined manner in at least partial dependence on the approval or disapproval indication *(Figure 6 wherein block630,640,660 read on generate an approval or disapproval indication limitation, page 6 [0139-0140])*.

- *Dutta does not explicitly teach* for the plurality of monitored computers, utilizing said client application to capture in real time all requests for data as the monitored user accesses digital content; and for the .plurality of monitored computers, utilizing the at least one communication application of the client application to automatically pass information related to the captured requests for data from the client application to the server in real time as the monitored user accesses the digital content. However,

  Easty teaches for the plurality of monitored computers, utilizing said client application to capture in real time all requests for data as the monitored user accesses digital content *(Figures 3A-C and 4A-C, column 6, lines 54-56)*; for the .plurality of monitored computers, utilizing the at least one communication

application of the client application to automatically pass information related to the captured requests for data from the client application to the server in real time as the monitored user accesses the digital content *(Figures 3A-C and 4A-C, column 7, lines 2-5)*. Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine distributing digital content to a plurality of endpoint servers teaching of Easty with method for filtering content based on accessibility to a user teaching of Dutta to provide method and system which manage digital assets of the endpoint servers based on aggregate profile information reflecting the preferences of the users (Easty, column 1 lines 8-10).

As to **Claim 11**, *Dutta in combination with Easty teaches* further comprising:

- storing configuration settings on at least one backend server *(Easty, column 3, lines 6-9 wherein the aggregate profile stored at the endpoint server read on the claimed limitation)*;

- wherein the configuration settings relate to user-entered preferences *(Easty, column 4, line 20)*;

- sending the configuration settings from the at least one backend server to the client application *(Easty, Figure 1, block13/16, column 4, lines 15-24)*; and

- configuring the client application based in at least partial dependence on the configuration settings *(Easty, column x, lines)*.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Pub. No. US2002/0103914 issued to Dutta et al. ("Dutta"), and further in view of

US Patent No. 6,189,008 issued to Easty et al. ("Easty") as applied to claim 8

above, and further in view of Pub. No. US2003/0149755 issued to Emek Sadot

("Sadot").

As to **Claim 10**:

Dutta in combination with Easty teaches all the elements of Claim 8 as

stated above.

Dutta in combination with Easty does not explicitly teaches further

comprising: sending a signal from the client application to a plurality of servers to

determine which server of the plurality of servers has the quickest response rate;

selecting a server with the quickest response rate as a primary server; and

wherein the server on which the server application is resident has been selected

as a primary server.

Sadot teaches further comprising:

- sending a signal from the client application to a plurality of servers to

  determine which server of the plurality of servers has the quickest response

  rate *(page 5 [0053])*;

- selecting a server with the quickest response rate as a primary server *(Figure*

  2 block206, page 5 [0053]); and

- wherein the server on which the server application is resident has been

  selected as a primary server *(page 5 [0053])*. Thus, it would have been

obvious to a person of ordinary skill in the art at the time of the invention to

combine client-controlled load balancer teaching of Sadot with distributing

digital content to a plurality of endpoint servers teaching of Easty and method

for filtering content based on accessibility to a user teaching of Dutta to

provide method and system which implement load balancer to determine how

a server is to be selected to obtain fastest response rate (Sadot, page 1

[0007]).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Pub. No. US2002/0103914 issued to Dutta et al. ("Dutta"), and further in view of

US Patent No. 6,189,008 issued to Easty et al. ("Easty") as applied to claim 8

above, and further in view of US Patent No. 6,947,985 issued to Hegli et al.

("Hegli").

As to **Claim 12**:

Dutta in combination with Easty teaches all the elements of Claim 8 as

stated above.

Dutta in combination with Easty does not explicitly teaches further

comprising: for the plurality of monitored computers, receiving digital content

from the network in response to the requests for data; and utilizing the client

application for delaying delivery of the digital content until the approval or

disapproval indication has been generated.

Hegli teaches further comprising:

- for the plurality of monitored computers, receiving digital content from the network in response to the requests for data *(Figure 1, wherein block12a-c receive digital content from the network15/20, column 3, lines 4-8)*; and

- utilizing the client application for delaying delivery of the digital content until the approval or disapproval indication has been generated *(column 6, lines 4-11)*. Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine filtering techniques for managing access to internet site or other software applications teaching of Hegli with distributing digital content to a plurality of endpoint servers teaching of Easty and method for filtering content based on accessibility to a user teaching of Dutta to provide method and system which control user access to categories of Internet sites between a local area network and a wide area network (Hegli, column 1 lines 61-63).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No. US2002/0103914 issued to Dutta et al. ("Dutta"), and further in view of US Patent No. 6,189,008 issued to Easty et al. ("Easty") as applied to claim 8 above, and further in view of Pub. No. US2003/0084184 issued to Eggleston et al. ("Eggleston").

As to **Claim 13**:

Dutta in combination with Easty teaches all the elements of Claim 8 as stated above.

Dutta in combination with Easty does not explicitly teaches further comprising. sending updates from the server application to the client application at predetermined intervals; and configuring the client application based in at least partial dependence on the updates.

Eggleston teaches further comprising:

- sending updates from the server application to the client application at predetermined intervals *(page 4 [0033])*; and

- configuring the client application based in at least partial dependence on the updates *(page 4 [0033])*. Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine method for rate governing communications teaching of Eggleston with distributing digital content to a plurality of endpoint servers teaching of Easty and method for filtering content based on accessibility to a user teaching of Dutta to provide method and system which improved transferring data in communications system (Eggleston, [0002]).

Response to Arguments

8. Applicant's arguments with respect to claims 8 and 10-13 have been considered but they are not persuasive. The Examiner respectfully maintains the rejection cited for the following reasons:

- Applicant argues: Applicant states in the last paragraph of page 6 that "Dutta is totally silent regarding the additional function of performing content rating, as required by limitation (b) of claim 8".

  Examiner responds: Examiner is not persuaded. Dutta teaches in Figures 6-7 wherein block630/670 page 6 [0138] [0139] wherein evaluation of content read on performing content rating claimed limitation.

- Applicant argues: Applicant states in paragraph 1 of page 7 that "At no point does the disclosure of Dutta contemplate utilizing a server and a client in combination to generate an approval or disapproval indication of digital content as required by limitation (h) of claim 8".

  Examiner responds: Examiner is not persuaded. Dutta teaches in Figures 1A-B in conjunction with Figures 4 and 6-7 page 3 [0033] that read on utilizing a server and a client in combination to generate an approval or disapproval indication of digital content as required by limitation (h) of claim 8.

- Applicant argues: Applicant states in the last paragraph of page 7 that "Applicant respectfully asserts that the Examiner has not explicitly identified any rationale as identified in KSR and listed in MPEP § 2143 to support the assertion that it would have been obvious to combine the teachings of Dutta, Easty, and Eggleston so as to reach the requirements of claim 13, much less its associated benefits. Absent such support, any such modification would

necessarily be based on the improper hindsight application of Applicant's own teachings. For this additional reason, claim 13 distinguishes over the combination of Dutta, Easty, and Eggleston".

Examiner responds: Examiner is not persuaded. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Citation of Pertinent Prior Art

9. The prior art made of record and not relied upon in Form PTO-892 if any is considered pertinent to applicant's disclosure.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Thanh-Ha Dang whose telephone number is

(571)272-4033. The examiner can normally be reached on Monday-Friday from

9:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are

unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-

1834. The fax phone number for the organization where this application or

proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

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Thanh-Ha Dang
Examiner, AU 2163
November 20, 2008

/don wong/
Supervisory Patent Examiner, Art Unit 2163